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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,562	10/18/2001	Daniel Damson	1720	2392

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EXAMINER

CIRIC, LJILJANA V

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/913,562

Applicant(s)
Damson et al.

Examiner
Ljiljana V. Ciric *JK*

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 18, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Oct 18, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1 6) ☐ Other:

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DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119 (a)-(d). The certified copy has been filed in parent Application No. PCT/DE00/04352, filed on December 7, 2000.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, the references listed on pages 1 and 2 of the specification have not been considered by the examiner.

Drawings

3. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 1 show(s) modified forms of construction in the same view. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to because, there being only one drawing, the figure number "1/1" should be removed. A proposed drawing correction or corrected drawings are required in

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reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
6. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underling or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-Reference to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
- (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (I) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (I) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).

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Claim Rejections - 35 U.S.C. § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1 through 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and contain grammatical and idiomatic errors.

For example, with regard to claim 1 as written, it is not clear to which previously cited element the indefinite pronoun "it" appearing in line 4 refers, thereby rendering indefinite the metes and bounds of protection sought by claim 1 and all claims depending therefrom. Claim 5 also contains a recitation of the indefinite pronoun "it" in line 1 and is similarly rendered indefinite. Recommend replacing "it" in each case with a direct recitation of whichever element is referred to thereby.

With regard to claim 2 as written, it is not clear whether "from which" appearing in lines 2-3 of the claim refers to the coolant ducts or to the reservoir. Also with regard to claim 2, it appears that at least a word or words are missing from the limitations following "and that the" appearing in line 5 of the claim.

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The limitations in claim 3 are also not clear as written. For example, do the limitations "characterized in that the gas reservoir (16) is designed as a bellows" mean that the gas reservoir comprises a bellows or that the gas reservoir is in the shape of a bellows or something else?

With regard to claim 4 as written, the term additive and alternative term "and/or" renders the intended scope of the claim indefinite.

With regard to claim 5 as written, the limitations "in that *it* is arranged in a main exhaust-gas flow (34) in the direction of flow *behind a catalytic exhaust-gas converter*" are not clear as written. In addition to the term "it" not clearly referring back to any particular element as already mentioned above, it is not clear whether either of the main exhaust gas flow or the catalytic exhaust gas converter are being positively recited or not.

With regard to claim 6 as written, the limitations "a bypass line (56) is provided, *on the branch of which* a shutoff device (58) is arranged in order to control the exhaust-gas inlet (30) and the bypass line (56) *in complementary fashion*" are not readily comprehensible. First of all, there is insufficient antecedent basis in the claims for the limitation "the branch", and second of all, it is not clear what is meant by the limitation "in complementary fashion".

The above is an indicative, but not necessarily an exhaustive, list of 35 U.S.C. 112, second paragraph, problems. Applicant is therefore advised to carefully review all of the claims for additional problems. Correction is required of all of the 35 U.S.C. 112, second paragraph problems, whether or not these were particularly pointed out above.

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Claim Rejections - 35 U.S.C. § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. As best can be understood in view of the indefiniteness of claims, claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by *Wulf*.

Wulf discloses the invention essentially as claimed, including a heat exchanger or radiator 13, an internal combustion engine 1, and a thermostat which reads on the shut-off device 11 as cited in the claim of the instant application, the shut-off device being provided in the coolant inflow line 12 or 16.

The reference thus reads on the claim.

11. The non-application of art against claims 2 through 6 should not be construed as an indication that the claims contain allowable subject matter but rather that the claims could not be examined on the merits due to indefiniteness.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Sugiura, Barrie et al., Kuze, Kim, Hill, and Warner* each discloses a vehicular heat exchange system of interest.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached on (703) 308-0101. The fax phone number is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

lvc

December 16, 2002


LJILJANA V. CIRIC
PRIMARY EXAMINER
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